



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA LEGISLATIVE DIPLOMA NO. 2070 DATED 15-04-1961 (AMENDMENT)
BILL, 2014**

(Bill No. 3 of 2014)

By Shri Mauvin Godinho, MLA

(As be introduced in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM-GOA
MARCH, 2014.**

The Goa Legislative Diploma No.2070 dated 15-04-1961 (Amendment) Bill, 2014.

(Bill No. 3 of 2014)

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BILL

further to amend the Goa Legislative Diploma no. 2070 dated 15-04-1961, in its application to the State of Goa.

Be it enacted by the Legislative Assembly of the State of Goa in the Sixty-fifth year of the Republic of India, as follows:-

1. Short title and commencement:- (1) This Act may be called the Goa Legislative Diploma No.2070 dated 15-04-1961 (Amendment) Act, 2014.

(2) It shall come into force at once.

2. Amendment of Article 29.- In the Article 29 of the principal Act,(i) In the paragraph (7), for the expression “The members of the Comunidade of either sex who may not know to read or write and count in Portuguese”, the expression “the members who have at least passed 12th standard from a recognized Board/university or equivalent” shall be substituted.

(ii) After Article, 29, the first paragraph \$ 1 shall be omitted.

(iii) The paragraph \$2 shall be renumbered as paragraph \$ 1.

3. Amendment of Article 50.- In the Article 50 of the principal Act, for the expression “appointed or elected as such, before the expiry of a period of three years”; the expression “shall be eligible for re-election for another term of three years subject to the condition that he fulfills the qualifications for being voted for the posts in the Comunidade” shall be substituted.

4. Amendment of Article 74- After Article 74 of the principal Act, the following shall be inserted, namely:-

“An attorney dismissed under this article or under Article 77 as the case may be, shall be disqualified from holding any office in the Comunidade for six years from the date of such dismissal.

5. Amendment of Article 75- in the Article 75 of the principal Act, after paragraph 8, the following shall be inserted, namely:-

“9. Notwithstanding anything contained in this Code, to take the assistance of the authorities for removal of any encroachment on Comunidade land upon it being held as such by the competent authority or court and no appeal has been preferred against such order, and the costs of such removal shall be recoverable as an arrear of land revenue”.

6. Amendment of Article 118- In the amended Article 118 of the principal Act, for the expression “on deputation from amongst the junior Grade Officers of the Goa Civil Service”, the expression “on contract from amongst persons of ability, integrity and standing having adequate knowledge and experience in Comunidades affairs, public administration and law” shall be substituted.

7. Insertion of new article 125-A. –After Article 125 of the Principal Act, the following article shall be inserted, namely;-

“Article 125-A- (1) The State Government shall establish for every administrative zone of Comunidades, by notification, a Council to be known as “Council for Comunidades of North/Central/South,(whichever is applicable) Zone” (hereinafter referred to as “the Council”) from such date as it may specify in such notification.

(2) The Council shall consist of the following members, namely:

- (a) The Administrator of Comunidades, who shall be its ex-officio Chairman.
- (b) Such other number of members elected by and from amongst the elected members of managing committees of Comunidades in the zone and in manner as may be prescribed by the Government.
- (c) The Secretary/Head Clerk of the Administration Office of Comunidades shall be its Member Secretary.

(3) The Council shall meet as and when necessary, but not less than six meetings shall be held every year.

(4) The Council shall meet in the office of the Administrator of Comunidades or at such other place as the Administrator may think fit and shall follow such procedure in regard to transaction of its business as may be prescribed by the Government.

(5) Powers of the Council:

- (a) To oversee the functioning of the Administration of Comunidades office and its employees;
- (b) To scrutinize and approve the budget and accounts of the Administration Office;

- (c) To emit its opinion on land lease and other files before forwarding for approval of Government and higher authorities;
- (d) Any other functions and powers as may be prescribed by the Government.

(6) The term of office of the Council shall be co-terminus with the triennium term of the managing committees of the Comunidades, and the honorarium and allowances of the non-official members shall be such as may be prescribed by the Government and defrayed from the funds of the respective Administration office.

8. Amendment of Article 334-A- In the Article 334-A of the principal Act,

(i) In the paragraph (vii), for the expression “Landless jonoeiros”, the expression “Landless qualified (able) members of the Comunidade” shall be substituted.

(ii) After paragraph (viii), the following paragraph shall be inserted namely;

(ix) “Landless persons residing in the village for more than fifteen years”. and existing paragraph (ix) shall be renumbered as (x)

9. Amendment of Article 372-A- In the Article 372-A of the principal Act:

(i) In the paragraph (1), for the expression “within a period of 90 days from the date on which Article 372-A came into effect”, the expression “within a period of 90 days from the date on which this enactment came into effect” shall be substituted.

(ii) After paragraph (1), the following proviso shall be inserted, namely:

“Provided that every application received by the Collector shall be forwarded to the Comunidade for its consent”

(iii) in the paragraph (2), for the expression “From the date on which Article 372-A came into effect”, the expression “From the date on which this enactment came into effect” shall be substituted.

(iv) In the proviso to paragraph (2), for the expression “one year from the date on which Article 372-A came into effect”, the expression “one year from the date this enactment came into effect” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Legislative Diploma No.2070 dated 15-04-1961, commonly known as “Code of Comunidades” is a self-contained code dealing extensively with all aspects of the constitution, administration and functioning of Comunidade bodies in Goa. However it is prudent and necessary for this pre-liberation legislation to keep with the times and enable the unique age-old bodies to meet present- day challenges with a view to making them robust and partners in the State’s progress.

Section 2 seeks repeal of an otiose provision in force over fifty years after liberation, while replacing it with prescription of minimum educational qualifications for its members of the Comunidade office to ensure its effective functioning, in the spirit of the principal Act.

Section 3 seeks to entitle managing committee members of the Comunidade to be re-elected for another term of three years.

Section 4 seeks to disqualify dismissed attorneys from holding any office in the Comunidade for six years.

Section 5, 6 and 7 are amendments based on recommendations made at the Convention of Comunidades of Goa held at Panaji on 30th October 2009 under Article 652 pursuant to directions of Hon’ble High Court in Writ Petition no: 406/2009(Celestino Noronha and others vs. State of Goa and others).

Section 5 seeks to empower Comunidade attorneys to remove illegal encroachments on its lands albeit subject to orders to this effect by the competent authority or court having attained finality.

Section 6 seeks to restore the spirit of the original provisions of the principal Act while ensuring administrative autonomy and reducing the financial burden on Comunidades of high salaries of civil service officers on the Comunidades.

In true democratic spirit, Section 7 seeks to introduce direct participation of Comunidades in the affairs of their zonal administration whose expenses and upkeep is met solely from their financial contributions.

Section 8 seeks to remove the disparity between the members of the Comunidade in matters of grant of Comunidade land without auction, enabling landless qualified (able) shareholders to such grant, alongwith the jonoeiros.

Sub-section (i) of Section 8 enables landless persons residing in the concerned village to be granted Comunidade land without auction, recognizing the historical fact that Comunidade lands are village lands held in common over the centuries.

Section 9 seeks to grant extension of time to persons in unauthorized occupation of or wrongful possession of Comunidade land on or before 15-06-2000 but who were unable to apply for regularization earlier for various reasons, while retaining the primacy of the Comunidade in decisions relating to regularization of encroachments on its lands.

FINANCIAL MEMORANDUM

No financial memorandum is envisaged.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 7 empowers the Government to make rules for the purpose of carrying into effect the provisions of the proposed enactment.

The Delegated legislation is normal character.

PORVORIM, GOA
10TH FEBRUARY, 2014

MAUVIN H. GODINHO
MLA

ASSEMBLY HALL
PORVORIM- GOA
10TH FEBRUARY, 2014

N. B. SUBHEDAR
SECRETARY TO THE LEGISLATIVE
ASSEMBLY OF GOA

(Annexure to Bill No.3 of 2014)

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Extract of the Goa Legislative Diploma No.2070 dated 15-4-1961.
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Art.29-The following cannot be either voted for or appointed for the posts in the comunidade:

1. The shareholders, whose income in the Comunidade, when the same is composed also of members by birth (Zonnkars), is not, at least equivalent to the minimum quota belonging to any of the zonnkars and, in the comunidades, exclusively comprised of shareholders, when the number of shares is greater than 500, those who do not possess, at least, five shares;
2. The non-emancipated minors and the interdicted;
3. Those who are indicted on the final judgment that has become definitive and those who have been sentenced for the crimes referred to in paragraph 4 of article 12, of Overseas Civil Services Statute (Estatuto do Funcionalismo Ultramarino);
4. The debtors to the comunidade or to subrogees, of the later, held as such, against whom a suit or execution is pending or even against whom a note of payment of debt in current account has been served;
5. The employees of the cadre of the civil administration, the members and employees of the Administrative Tribunal and the subordinate officials to the administrator;
6. The relatives of the administrator up to the 3rd degree;
7. The members of comunidade of either sex who may not know to read or write and count in Portuguese;
8. The foreigners.

1. The condition referred to in No.7 may be waived in the talukas of Ponda, Bicholim, Quepem, Pernem, Sanguem and Canacona, where voting or appointment shall be made of persons who have knowledge of Marathi, excepting, in regard to the post of president of managing committee, whose incumbent should have at least passed 4th standard of primary education in Portuguese language.

2. The relaxation referred to in paragraph 2 of preceding article is applicable to the clause 8 of this article.

Art.50- In Article. 50 of the principal Act, for the expression “appointed or elected before the lapse of three years, except in justified cases”, the expression “elected before the lapse of three years” shall be substituted.

Art.74- The attorney, who has been found to be harmful to the interests of the comunidade, shall be suspended by the administrator and dismissed by the Governor-General, upon the report or proposal of the administrator and hearing of the interested party.

Art.75- The attorney of the comunidade shall be its representative and its controller who shall have the following powers;-

1. Look after and defend the interests of the comunidade;
2. Represent the comunidade before any courts and offices or public authorities;
3. Bring to the notice of the authorities or the comunidade the irregularities on the part of employees and agents and the encroachment of land. He may even challenge the encroachment in terms of articles 486 and 2354 of the Civil Code;
4. Attend the comunidades meetings and take part in its deliberations and in the works of enrolment and registration of the zonnkars, in the closing of the enrolment of shareholders, in the auctions and charges, in the preparation of the statement of income and expenditure and the list of qualified members and of the estimate, in final accounts of comunidades and in all inspections made by the managing committee or by the administrator of the fields, services and extraordinary works;
5. Supervise the ordinary and extraordinary services and extraordinary works;
6. Submit, within fifteen days, at the administration office or in the registrars offices-“Conservatorias” the conditions of auctions, security and other required documents to effect the registration of the pledge of shares or to register the mortgage, under penalty of being responsible on subsidiary basis, if he fails to do the same;
7. Appeal against all the deliberations and orders which are against the interests of the comunidade and in those cases where the appeal is compulsory;
8. Take all the steps required for a good administrative and financial management of the comunidade.

Art.118- In Article 118 of the principal Act, for the expression “on commission from amongst the persons of well known competence in the field of public administrations preferably Administration of Comunidades”, the expression “on deputation from amongst the Junior grade officers of Goa Civil Service” shall be substituted.

Art.334-A-Notwithstanding anything contained in article 334, but subject to article 327, Comunidade may, subject to such guidelines as the Government, may, from time to time issue,

grant on lease land for construction of houses or buildings, without auction, to any of the following categories or for purposes:-

- i) Public, Charitable or Religious Institutions;
- ii) For any scheme of providing housing to the economically weaker sections;
- iii) Small scale industrial purposes;
- iv) Government Departments or local bodies;
- v) Co-operative Housing Societies of landless persons;
- vi) Government servants or employees of the Comunidades;
- vii) Landless Jonoeiros;
- viii) Freedom Fighters;
- ix) Such other categories or purposes as may be notified by the Government, from time to time.

Provided that every notifications issued under this clause shall be laid as soon as may be, after it is issued, before the Legislative Assembly:

Provided further that the members of the Cooperative Housing Societies and the persons belonging to the categories (vi), (vii) and (viii) above are residing in Goa for preceding 25 years;

Provided also that no person whose annual income exceeds Rs.30,000/- or such amount as may be prescribed by the Government shall be eligible for grant of land on lease without auction.”

372-A- Regularisation of unauthorized occupation, wrongful possession, etc.- (1) Notwithstanding anything contained, elsewhere in this Code, or any other law for the time being in force, or in any instrument, judgement, decree or order of any court or law, any person who is in unauthorized occupation of, or in wrongful possession of, or who has encroached upon, in or over, any land:

- (a) vested in comunidade, or
- (b) to the use or occupation of which he is not entitled or has ceased to be entitled, by reason of:
 - (i) any of the provisions of this code, or
 - (ii) the expiry of the period of lease or termination of lease for breach of any of the conditions annexed to the tenure:

and has constructed, on or before 15-6-2000, a house, for residential purpose on such land, shall, on an application made by him to the Collector of the concerned district, within a period of 90 days from the date on which the Article 372-A,came into effect, in the specified form, accompanied by specified documents and on payment of specified fees, be entitled for the regularization of such unauthorized occupation or wrongful possession or encroachment including of the said residential house, subject however to sub-clause (3) of Article 372-A.

(2) From the date on which Article 372-A came into effect till the expiry of the period of 90 days prescribed under sub-clause (1) above, or till the pendency and disposal of the application, if any, made under sub- clause (1) above, as the case may be:

(a) no proceedings shall be initiated and no order shall be passed, under this Code, against a person who is eligible to apply for and whose case falls, under sub-clause (1) above, and

(b) all proceedings already initiated and any order already passed under this code, against a person who is eligible to apply for and whose case falls under sub-clause (1) above, shall remain stayed during such period as prescribed above.

Provided that the period of stay of any proceedings initiated or of any order passed under this Code or the period during which no proceedings can be initiated or no order can be passed under this Code as stated above, shall not extend beyond a period of one year from the date on which Article 372-A came into effect notwithstanding the fact that the said application made under sub-clause (1) above is not disposed off within the said period of one year.

(3) The form of application, fees payable, the procedure to be followed in processing/deciding the application under sub-clause (1) above, the documents required to be furnished alongwith an application under sub-clause (1) above, the area to be regularized, if fine to be imposed upon, for regularization, if any, etc., shall be such as may be specified in the rules under the Code.

ASSEMBLY HALL
PORVORIM- GOA
10TH FEBRUARY, 2014

N. B. SUBHEDAR
SECRETARY TO THE LEGISLATIVE
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